

AMENDED IN ASSEMBLY JULY 2, 2013

AMENDED IN SENATE MAY 28, 2013

AMENDED IN SENATE APRIL 30, 2013

AMENDED IN SENATE APRIL 3, 2013

SENATE BILL

No. 61

Introduced by Senator Yee

January 8, 2013

An act to amend Section 230 of, to amend, repeal, and add Sections 225, 226, and 229 of, and to add Section 208.3 to, the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

SB 61, as amended, Yee. Juveniles: solitary confinement.

(1) Existing law permits minors who are detained in juvenile hall for habitual disobedience, truancy, or curfew violation to be held in the same facility as minors who are detained for violating any law or ordinance defining a crime, if they do not come or remain in contact with each other. Existing law also permits the detention of minors in jails and other secure facilities for the confinement of adults if the minors do not ~~come~~, *come* or ~~remain~~, *remain* in contact with confined adults and other specified conditions are met.

Existing law, the Lanterman-Petris-Short Act, authorizes the involuntary detention for a period of 72 hours for evaluation of persons, including minors, who are dangerous to self or others, or gravely disabled, as defined.

This bill would provide that a minor or ward who is detained in, or sentenced to, any juvenile facility or other secure state or local facility shall not be subject to solitary confinement, as defined, unless the minor

or ward poses an immediate and substantial risk of harm to others or to the security of the facility, and all other less-restrictive options have been exhausted. The bill would permit the minor or ward to be held in solitary confinement only in accordance with specified guidelines, including that the minor or ward be held in solitary confinement only for the minimum time required to address the safety risk, and that does not compromise the mental and physical health of the minor or ward. The bill would prohibit a minor or ward from being placed in solitary confinement for more than 24 hours in a one-week period without obtaining specified written approval. The bill would require each local and state juvenile facility to document the usage of solitary confinement, as prescribed. These provisions would become operative on January 1, 2015. By increasing the duties of local juvenile facilities, the bill would impose a state-mandated local program.

(2) Existing law establishes a juvenile justice commission in each county, but authorizes the boards of supervisors of 2 or more adjacent counties to agree to establish a regional juvenile justice commission in lieu of a county juvenile justice commission. Existing law specifies the membership of these commissions, including that 2 or more members shall be persons who are 14 to 21 years of age, inclusive, and that a regional juvenile justice commission shall consist of not less than 8 citizens. Existing law requires a juvenile justice commission to annually inspect any jail or lockup that, in the preceding calendar year, was used for confinement for more than 24 hours of any minor, and to report the results of the inspection, together with its recommendations based thereon, in writing, to the juvenile court and the Board of State and Community Corrections. Existing law authorizes a commission to recommend to any person charged with the administration of the Juvenile Court Law those changes as it has concluded, after investigation, will be beneficial, and to publicize its recommendations.

This bill would provide that 2 or more members of these commissions shall be parents or guardians of previously or currently incarcerated youth, and one member shall be a licensed social worker, licensed psychiatrist, or licensed psychologist with expertise in adolescent development, *if there are available persons who meet those requirements, as specified*. The bill also would increase from 8 to 10 the minimum number of members of a regional juvenile justice commission. The bill would authorize a juvenile justice commission, as part of its annual inspection, to review the records of the jail or lockup as to the use of solitary confinement, and to additionally report the

results of the inspection, together with its recommendations based thereon, in writing, to the county board of supervisors. The bill would authorize the commission to present its report at an annual hearing on the condition of juvenile justice corrections as part of a regularly scheduled public meeting of the county board of supervisors, and to publish the report on the county ~~government~~ *government's* Internet Web site. The bill would authorize the commission to annually inspect any facility within the county other than a jail or lockup that, in the preceding calendar year, was used for confinement for more than 24 hours of any minor, and to review the records of the facility as to the use of solitary confinement. The bill would authorize the commission to report the results of the inspection to the juvenile court, the county board of supervisors, and the Board of State and Community Corrections, to present its report at an annual hearing on the condition of juvenile justice corrections as part of a regularly scheduled public meeting of the county board of supervisors, and to publish the report on the county ~~government~~ *government's* Internet Web site. These provisions would become operative on January 1, 2015. The bill also would authorize a commission to publicize its recommendations made to any person charged with administration of the Juvenile Court Law on the county ~~government~~ *government's* Internet Web site.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 208.3 is added to the Welfare and
- 2 Institutions Code, to read:
- 3 208.3. (a) For purposes of this section, the following
- 4 definitions shall apply:
- 5 (1) "Minor" means a person who is any of the following:
- 6 (A) A person under 18 years of age.

1 (B) A person under the maximum age of juvenile court
2 jurisdiction who is confined in a juvenile facility.

3 (C) A person under the jurisdiction of the Department of
4 Corrections and Rehabilitation, Division of Juvenile Facilities.

5 (2) “Solitary confinement” means the involuntary holding of a
6 person in a room or cell from which the person is prevented from
7 leaving, in isolation from persons other than guards, facility staff,
8 and attorneys, during hours other than a facility’s sleeping hours.

9 (3) “Ward” means a person who has been declared a ward of
10 the court pursuant to subdivision (a) of Section 602.

11 (b) A minor or ward who is detained in, or sentenced to, any
12 juvenile facility or other secure state or local facility shall not be
13 subject to solitary confinement, unless the minor or ward poses an
14 immediate and substantial risk of harm to others or to the security
15 of the facility, and all other less-restrictive options have been
16 exhausted. A minor or ward may be held in solitary confinement
17 only in accordance with all of the following guidelines:

18 (1) The minor or ward shall be held in solitary confinement only
19 for the minimum time required to address the safety risk, and that
20 does not compromise the mental and physical health of the minor
21 or ward.

22 (2) The minor or ward shall not be placed in solitary
23 confinement for more than 24 hours in a one-week period without
24 the written approval of the Chief of the Division of Juvenile
25 Facilities, or his or her designee, or the chief probation officer, or
26 his or her designee, which shall be required for each 24-hour period
27 thereafter.

28 (c) Solitary confinement shall not be used for the purposes of
29 discipline, punishment, coercion, convenience, or retaliation by
30 staff.

31 (d) Each local and state juvenile facility shall document the
32 usage of solitary confinement, including the dates and duration of
33 each occurrence, the reason for placement in solitary confinement,
34 and the race, age, and gender of the minor or ward placed in solitary
35 confinement. If any health or mental health clinical evaluations
36 were performed, these records shall affirmatively certify that the
37 results of those evaluations were considered in any decision to
38 place a minor or ward in solitary confinement or to continue
39 solitary confinement. These records shall be available for public
40 inspection pursuant to the California Public Records Act (Chapter

1 3.5 (commencing with Section 6250) of Division 7 of Title 1 of
2 the Government Code).

3 (e) Nothing in this section shall be construed to conflict with
4 any law providing greater or additional protections to minors or
5 wards.

6 (f) This section shall become operative on January 1, 2015.

7 SEC. 2. Section 225 of the Welfare and Institutions Code is
8 amended to read:

9 225. (a) In each county there shall be a juvenile justice
10 commission consisting of not less than 7 and no more than 15
11 citizens. Two or more members shall be persons who are 14 to 21
12 years of age, inclusive, if there are available persons 14 to 21 years
13 of age, inclusive, who are able to carry out the duties of a
14 commission member in a manner satisfactory to the appointing
15 authority. Each person serving as a member of a probation
16 committee immediately prior to September 15, 1961, shall be a
17 member of the juvenile justice commission and shall continue to
18 serve as such until his or her term of appointment as a member of
19 the probation committee would have expired under any prior law.
20 Upon a vacancy occurring in the membership of the commission,
21 and upon the expiration of the term of office of any member, a
22 successor shall be appointed by the presiding judge of the superior
23 court with the concurrence of the judge of the juvenile court or,
24 in a county having more than one judge of the juvenile court, with
25 the concurrence of the presiding judge of the juvenile court for a
26 term of four years. If a vacancy occurs for any reason other than
27 the expiration of a term of office, the appointee to fill the vacancy
28 shall hold office for the unexpired term of his or her predecessor.

29 (b) Appointments may be made by the presiding judge of the
30 superior court, in the same manner designated in this section for
31 the filling of vacancies, to increase the membership of a
32 commission to the maximum of 15 members in any county that
33 has a commission with a membership of less than 15 members.

34 (c) In any county in which the membership of the commission,
35 on the effective date of amendments to this section enacted at the
36 1971 Regular Session of the Legislature, exceeds the maximum
37 number permitted by this section, no additional appointments shall
38 be made until the number of commissioners is less than the
39 maximum number permitted by this section. In any case, such
40 county's commission membership shall, on or after January 1,

1 1974, be no greater than the maximum number permitted by this
2 section.

3 (d) This section shall remain in effect only until January 1, 2015,
4 and as of that date is repealed, unless a later enacted statute, that
5 is enacted before January 1, 2015, deletes or extends that date.

6 SEC. 3. Section 225 is added to the Welfare and Institutions
7 Code, to read:

8 225. (a) In each county there shall be a juvenile justice
9 commission consisting of not less than 7 and no more than 15
10 citizens. Two or more members shall be persons who are 14 to 21
11 years of age, inclusive, if there are available persons 14 to 21 years
12 of age, inclusive, who are able to carry out the duties of a
13 commission member in a manner satisfactory to the appointing
14 authority. Two or more members shall be parents or guardians of
15 previously or currently incarcerated ~~youth~~ youth, *if there are*
16 *available persons who meet this requirement who are able to carry*
17 *out the duties of a commission member in a manner satisfactory*
18 *to the appointing authority.* One member shall be a licensed social
19 worker, licensed psychiatrist, or licensed psychologist with
20 expertise in adolescent ~~development~~ development, *if there is an*
21 *available person who meets this requirement who is able to carry*
22 *out the duties of a commission member in a manner satisfactory*
23 *to the appointing authority.* Each person serving as a member of
24 a probation committee immediately prior to September 15, 1961,
25 shall be a member of the juvenile justice commission and shall
26 continue to serve as such until his or her term of appointment as
27 a member of the probation committee would have expired under
28 any prior law. Upon a vacancy occurring in the membership of the
29 commission, and upon the expiration of the term of office of any
30 member, a successor shall be appointed by the presiding judge of
31 the superior court with the concurrence of the judge of the juvenile
32 court or, in a county having more than one judge of the juvenile
33 court, with the concurrence of the presiding judge of the juvenile
34 court for a term of four years. If a vacancy occurs for any reason
35 other than the expiration of a term of office, the appointee to fill
36 the vacancy shall hold office for the unexpired term of his or her
37 predecessor.

38 (b) Appointments may be made by the presiding judge of the
39 superior court, in the same manner designated in this section for
40 the filling of vacancies, to increase the membership of a

1 commission to the maximum of 15 members in any county that
2 has a commission with a membership of less than 15 members.

3 (c) In any county in which the membership of the commission,
4 on the effective date of amendments to this section enacted at the
5 1971 Regular Session of the Legislature, exceeds the maximum
6 number permitted by this section, no additional appointments shall
7 be made until the number of commissioners is less than the
8 maximum number permitted by this section. In any case, that
9 county's commission membership shall, on or after January 1,
10 1974, be no greater than the maximum number permitted by this
11 section.

12 (d) This section shall become operative on January 1, 2015.

13 SEC. 4. Section 226 of the Welfare and Institutions Code is
14 amended to read:

15 226. (a) In lieu of county juvenile justice commissions, the
16 boards of supervisors of two or more adjacent counties may agree
17 to establish a regional juvenile justice commission consisting of
18 not less than eight citizens, and having a sufficient number of
19 members so that their appointment may be equally apportioned
20 between the participating counties. Two or more members shall
21 be persons who are 14 to 21 years of age, inclusive, if there are
22 available persons 14 to 21 years of age, inclusive, who are able to
23 carry out the duties of a commission member in a manner
24 satisfactory to the appointing authority. The presiding judge of the
25 superior court with the concurrence of the judge of the juvenile
26 court or, in a county having more than one judge of the juvenile
27 court, with the concurrence of the presiding judge of the juvenile
28 court of each of the participating counties shall appoint an equal
29 number of members to the regional justice commission and the
30 members shall hold office for a term of four years. Of those first
31 appointed, however, if the number of members appointed is an
32 even number, one-half shall serve for a term of two years and
33 one-half shall serve for a term of four years. If the number of
34 members first appointed is an odd number, the greater number
35 nearest one-half shall serve for a term of two years and the
36 remainder shall serve for a term of four years. The respective terms
37 of the members first appointed shall be determined by lot as soon
38 as possible after their appointment. Upon a vacancy occurring in
39 the membership of the commission, and upon the expiration of the
40 term of office of any member, a successor shall be appointed by

1 the presiding judge of the superior court with the concurrence of
2 the judge of the juvenile court or, in a county having more than
3 one judge of the juvenile court, with the concurrence of the
4 presiding judge of the juvenile court of the county that originally
5 appointed the vacating or retiring member. If a vacancy occurs for
6 any reason other than the expiration of a term of office, the
7 appointee shall hold office for the unexpired term of his or her
8 predecessor.

9 (b) This section shall remain in effect only until January 1, 2015,
10 and as of that date is repealed, unless a later enacted statute, that
11 is enacted before January 1, 2015, deletes or extends that date.

12 SEC. 5. Section 226 is added to the Welfare and Institutions
13 Code, to read:

14 226. (a) In lieu of county juvenile justice commissions, the
15 boards of supervisors of two or more adjacent counties may agree
16 to establish a regional juvenile justice commission consisting of
17 not less than 10 citizens, and having a sufficient number of
18 members so that their appointment may be equally apportioned
19 between the participating counties. Two or more members shall
20 be persons who are 14 to 21 years of age, inclusive, if there are
21 available persons 14 to 21 years of age, inclusive, who are able to
22 carry out the duties of a commission member in a manner
23 satisfactory to the appointing authority. Two or more members
24 shall be parents or guardians of previously or currently incarcerated
25 ~~youth~~ *youth, if there are available persons who meet this*
26 *requirement who are able to carry out the duties of a commission*
27 *member in a manner satisfactory to the appointing authority. One*
28 *member shall be a licensed social worker, licensed psychiatrist,*
29 *or licensed psychologist with expertise in adolescent development*
30 *development, if there is an available person who meets this*
31 *requirement who is able to carry out the duties of a commission*
32 *member in a manner satisfactory to the appointing authority. The*
33 *presiding judge of the superior court with the concurrence of the*
34 *judge of the juvenile court or, in a county having more than one*
35 *judge of the juvenile court, with the concurrence of the presiding*
36 *judge of the juvenile court of each of the participating counties*
37 *shall appoint an equal number of members to the regional justice*
38 *commission and the members shall hold office for a term of four*
39 *years. Of those first appointed, however, if the number of members*
40 *appointed is an even number, one-half shall serve for a term of*

1 two years and one-half shall serve for a term of four years. If the
2 number of members first appointed is an odd number, the greater
3 number nearest one-half shall serve for a term of two years and
4 the remainder shall serve for a term of four years. The respective
5 terms of the members first appointed shall be determined by lot
6 as soon as possible after their appointment. Upon a vacancy
7 occurring in the membership of the commission, and upon the
8 expiration of the term of office of any member, a successor shall
9 be appointed by the presiding judge of the superior court with the
10 concurrence of the judge of the juvenile court or, in a county having
11 more than one judge of the juvenile court, with the concurrence
12 of the presiding judge of the juvenile court of the county that
13 originally appointed the vacating or retiring member. If a vacancy
14 occurs for any reason other than the expiration of a term of office,
15 the appointee shall hold office for the unexpired term of his or her
16 predecessor.

17 (b) This section shall become operative on January 1, 2015.

18 SEC. 6. Section 229 of the Welfare and Institutions Code is
19 amended to read:

20 229. (a) It shall be the duty of a juvenile justice commission
21 to inquire into the administration of the juvenile court law in the
22 county or region in which the commission serves. For this purpose
23 the commission shall have access to all publicly administered
24 institutions authorized or whose use is authorized by this chapter
25 situated in the county or region, shall inspect those institutions at
26 least once a year, and may hold hearings. A judge of the juvenile
27 court may issue subpoenas requiring attendance and testimony of
28 witnesses and production of papers at hearings of the commission.

29 (b) A juvenile justice commission shall annually inspect any
30 jail or lockup within the county that, in the preceding calendar
31 year, was used for confinement for more than 24 hours of any
32 minor. It shall report the results of the inspection, together with
33 its recommendations based thereon, in writing, to the juvenile court
34 and to the Board of State and Community Corrections.

35 (c) This section shall remain in effect only until January 1, 2015,
36 and as of that date is repealed, unless a later enacted statute, that
37 is enacted before January 1, 2015, deletes or extends that date.

38 SEC. 7. Section 229 is added to the Welfare and Institutions
39 Code, to read:

1 229. (a) It shall be the duty of a juvenile justice commission
2 to inquire into the administration of the juvenile court law in the
3 county or region in which the commission serves. For this purpose
4 the commission shall have access to all publicly administered
5 institutions authorized or whose use is authorized by this chapter
6 situated in the county or region, shall inspect those institutions at
7 least once a year, and may hold public hearings. A judge of the
8 juvenile court may issue subpoenas requiring attendance and
9 testimony of witnesses and production of papers at hearings of the
10 commission.

11 (b) A juvenile justice commission shall annually inspect any
12 jail or lockup within the county that, in the preceding calendar
13 year, was used for confinement for more than 24 hours of any
14 minor. As part of the annual inspection, the commission may
15 review the records of the jail or lockup as to the use of solitary
16 confinement, as defined in paragraph (2) of subdivision (a) of
17 Section 208.3. The commission shall report the results of the
18 inspection, together with its recommendations based thereon, in
19 writing, to the juvenile court and the Board of State and
20 Community Corrections, and may report those results to the county
21 board of supervisors. The commission may present its report at an
22 annual hearing on the condition of juvenile justice corrections as
23 part of a regularly scheduled public meeting of the county board
24 of supervisors, and may publish the report on the county
25 ~~government~~ *government's* Internet Web site.

26 (c) A juvenile justice commission may annually inspect any
27 facility within the county other than a jail or lockup that, in the
28 preceding calendar year, was used for confinement for more than
29 24 hours of any minor. As part of the annual inspection, the
30 commission may review the records of the facility as to the use of
31 solitary confinement, as defined in paragraph (2) of subdivision
32 (a) of Section 208.3. If the commission inspects a facility, the
33 commission may report the results of the inspection, together with
34 its recommendations based thereon, in writing, to the juvenile
35 court, the county board of supervisors, and the Board of State and
36 Community Corrections. The commission may present its report
37 at an annual hearing on the condition of juvenile justice corrections
38 as part of a regularly scheduled public meeting of the county board
39 of supervisors, and may publish the report on the county
40 ~~government~~ *government's* Internet Web site.

1 (d) This section shall become operative on January 1, 2015.

2 SEC. 8. Section 230 of the Welfare and Institutions Code is
3 amended to read:

4 230. A juvenile justice commission may recommend to any
5 person charged with the administration of any of the provisions
6 of this chapter those changes as it has concluded, after
7 investigation, will be beneficial. A commission may publicize its
8 recommendations on the county ~~government~~ *government's* Internet
9 Web site.

10 SEC. 9. If the Commission on State Mandates determines that
11 this act contains costs mandated by the state, reimbursement to
12 local agencies and school districts for those costs shall be made
13 pursuant to Part 7 (commencing with Section 17500) of Division
14 4 of Title 2 of the Government Code.